

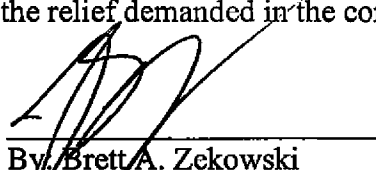
SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK**SUMMONS**-----X
HENDRIX PINEDA,

Plaintiff,

-against-

ARCHDIOCESE OF NEW YORK and ST. JOSEPH'S
CHURCH,Defendants.
-----XPlaintiff(s) designates
NEW YORK County as the
place of trial.The basis of the venue is
Defendant Archdiocese of New
York's place of businessPlaintiff(s) reside at
245-09 Union Turnpike, Apt. A
Bellerose, NY 11426Index No.:
Date Summons &
Complaint Filed:**To the above named Defendant(s)**

You are hereby summoned to answer the complaint in this action, and to serve a copy of your answer, or if the complaint is not served with this summons, to serve a notice of appearance on the plaintiff's attorney(s) within twenty days after the services of this summons exclusive of the day of service, where service is made by delivery upon you personally within the state, or within 30 days after completion of service where service is made in any other manner. In case of your failure to appear or answer, judgment will be taken against you by default for the relief demanded in the complaint.

Dated: Port Washington, NY
September 11, 2019
By: Brett A. Zekowski
Parker Waichman LLP
Office & Post Office Address:
6 Harbor Park Drive
Port Washington, NY 11050
(516) 466-6500
Our File # 933005

TO: Archdiocese of New York: 1011 First Avenue, New York, NY 10022

St. Joseph's Church: 141 Ashburton Avenue, Yonkers, NY 10701

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK-----X
HENDRIX PINEDA,**VERIFIED COMPLAINT**

Plaintiff,

Index No.:

Jury Trial Demanded

-against-

ARCHDIOCESE OF NEW YORK and ST. JOSEPH'S
CHURCH,Defendants.
-----X

Plaintiff, Hendrix Pineda, by his attorneys Parker Waichman LLP, complaining of the defendants, respectfully alleges, on personal knowledge as to himself and on information and belief as to all other matters, as follows:

1. At the time of the commencement of this action plaintiff, Hendrix Pineda, was a resident of the County of Queens, State of New York.
2. At the time of the incident(s) giving rise to this complaint, plaintiff was a resident of the County of Westchester, State of New York.
3. This action is timely pursuant to CPLR 214-g.
4. At all times herein mentioned, defendant, Archdiocese of New York was a religious corporation organized pursuant to the Religious Corporations Law, with its principal office at 1011 First Avenue, New York, NY 10022.
5. At all times herein mentioned, defendant, St. Joseph's Church was a religious corporation organized pursuant to the Religious Corporations Law with its principal office 141 Ashburton Avenue, Yonkers, NY 10701.
6. At all times herein mentioned, defendant, St. Joseph's Church was a Roman Catholic Church or parish within and under the authority of defendant, Archdiocese of New York.

7. At all times herein mentioned, defendant, Archdiocese of New York, oversaw, managed, controlled, directed and operated defendant, St. Joseph's Church.

8. At all times herein mentioned, defendant, Archdiocese of New York, managed, supervised and controlled those who were employed or otherwise worked for defendant, St. Joseph's Church, including, but not limited to priests, nuns and other personnel and volunteers, both while they were on premises and engaged in off-premises activities related to their employment with defendant, Archdiocese of New York.

9. At all times herein mentioned, defendant, St. Joseph's Church, managed, supervised and controlled those who were employed or otherwise worked for defendant, St. Joseph's Church, including, but not limited to priests, nuns and other personnel and volunteers, both while they were on premises and engaged in off-premises activities related to their employment with defendant, Archdiocese of New York.

10. From on or about January 1, 1992 through on or about December 31, 1995, plaintiff, Hendrix Pineda, an infant, attended defendant, St. Joseph's Church.

11. From on or about January 1, 1992 through on or about December 31, 1995, plaintiff, Hendrix Pineda, was a parishioner of defendant, St. Joseph's Church.

12. At all times herein mentioned and relevant to the allegations set forth herein Father Patrick M. Carroll, was a priest assigned by defendant, Archdiocese of New York, to defendant, St. Joseph's Church.

13. At all times herein mentioned and relevant to the allegations set forth herein Father Patrick M. Carroll, was a priest at defendant, St. Joseph's Church.

14. At all times herein mentioned, Father Patrick M. Carroll, was employed by defendant, Archdiocese of New York.

15. At all times herein mentioned, Father Patrick M. Carroll, was employed by the

defendant, St. Joseph's Church.

16. Through his position with defendant, Archdiocese of New York, Father Patrick M. Carroll, was put in direct contact with plaintiff, Hendrix Pineda, then an infant.

17. Through his position with defendant, St. Joseph's Church, Father Patrick M. Carroll, was put in direct contact with plaintiff, Hendrix Pineda, then an infant.

18. That on or about January 1, 1992 through on or about December 31, 1995, Father Patrick M. Carroll, sexually abused the plaintiff, Hendrix Pineda.

19. At all times herein mentioned, Father Patrick M. Carroll was under the management, supervision, employ, direction and/or control of defendant, Archdiocese of New York.

20. At all times herein mentioned, Father Patrick M. Carroll was under the management, supervision, employ, direction and/or control of defendant, St. Joseph's Church.

21. Defendants, Archdiocese of New York and St. Joseph's Church, knew and/or reasonably should have known and/or knowingly condoned and/or covered up, the inappropriate and unlawful sexual activities of Father Patrick M. Carroll, who sexually abused the plaintiff, Hendrix Pineda while plaintiff, Hendrix Pineda was an infant.

22. Defendant, Archdiocese of New York, had the responsibility to manage, supervise, control and/or direct priests assigned to defendant, St. Joseph's Church.

23. Defendant, St. Joseph's Church, had the responsibility to manage, supervise, control and/or direct priests assigned to St. Joseph's Church.

24. At all relevant times, defendants, Archdiocese of New York and St. Joseph's Church, had a duty not to aid pedophiles such as Father Patrick M. Carroll, by assigning, maintaining and/or appointing him to positions in which he would have access to minors.

25. At all relevant times, Father Patrick M. Carroll, used his position as a priest to

entice, take control of plaintiff, Hendrix Pineda, and sexually assault, sexually abuse or have sexual contact with plaintiff, Hendrix Pineda, while plaintiff was a minor.

26. Defendants, individually, jointly and/or severally, violated various New York statutes, including, but not limited to N.Y. Soc. Serv. Law §§413 and 420, which require school officials and teachers to report suspected cases of child abuse and impose liability for failure to report.

27. Plaintiff suffered physical and psychological injuries and damages as a result of his childhood sexual abuse by Father Patrick M. Carroll.

28. As a direct result of defendants' conduct, plaintiff suffered and will continue to suffer great pain of body and mind, severe and permanent emotional distress and physical manifestations of emotional distress. As a result of his childhood sexual abuse, plaintiff has been prevented from obtaining the full enjoyment of life, has incurred and will continue to incur expenses for medical and psychological treatment, therapy and counseling and has incurred and will continue to incur loss of income and/or loss of earning capacity.

29. Because of his childhood sexual abuse, plaintiff, Hendrix Pineda, is unable to fully describe all of the details of that abuse and the extent of the harm that he suffered as a result.

**AS AND FOR A FIRST CAUSE OF ACTION
NEGLIGENT HIRING, RETENTION, SUPERVISION AND/OR DIRECTION**

30. Plaintiff repeats and realleges each and every allegation set forth in paragraphs 1 through 29 as if fully set forth herein.

31. The sexual abuse of children by adults, including priests and teachers, is foreseeable.

32. Defendants, Archdiocese of New York and St. Joseph's Church, at all relevant times represented and held out to the public defendant, St. Joseph's Church to be a safe place for

learning and participating in youth activities.

33. At all relevant times, defendants Archdiocese of New York and St. Joseph's Church, were each under an express and/or implied duty to protect and care for plaintiff, Hendrix Pineda.

34. Defendants, Archdiocese of New York and St. Joseph's Church, negligently hired, retained, directed and supervised Father Patrick M. Carroll, because they knew or should have known that Father Patrick M. Carroll posed a threat of sexual abuse of children such as plaintiff.

35. Defendants Archdiocese of New York and St. Joseph's Church knew or should have known that Father Patrick M. Carroll, had a propensity to engage in the conduct which caused plaintiff's injuries prior to or about the time of the occurrence of these injuries.

36. Defendants Archdiocese of New York and St. Joseph's Church owed a duty of care to all minors, including plaintiff, who were likely to come under the influence or supervision of Father Patrick M. Carroll, in their role as teacher, priest, counselor, trustee, director, officer, employee, agent, servant and/or volunteer to ensure that Father Patrick M. Carroll did not use their assigned positions to injure minors by sexual assault, sexual abuse or sexual contact with minors.

37. Father Patrick M. Carroll, sexually assaulted, sexually abused and/or had sexual contact with plaintiff, Hendrix Pineda on defendants' premises, including St. Joseph's Church.

38. Defendants, Archdiocese of New York and St. Joseph's Church, were put on notice of Father Patrick M. Carroll's improper and inappropriate actions toward minors.

39. Defendants, Archdiocese of New York and St. Joseph's Church, were negligent in failing to properly supervise Father Patrick M. Carroll.

40. Defendants, Archdiocese of New York and St. Joseph's Church, were negligent in failing to properly manage Father Patrick M. Carroll.

41. Defendants, Archdiocese of New York and St. Joseph's Church, were negligent in

failing to properly control Father Patrick M. Carroll.

42. At all relevant times, defendants, Archdiocese of New York and St. Joseph's Church, were willful, wanton, malicious, reckless and/or outrageous in their disregard for the rights and safety of plaintiff.

43. As a direct and proximate result of defendants' above described omissions, plaintiff has suffered and will continue to suffer the injuries described herein.

44. By reason of the foregoing, the defendants are liable to plaintiff jointly, severally and/or in the alternative, for compensatory damages and punitive damages, together with costs and interest in excess of the jurisdictional limits of all lower courts which would otherwise have jurisdiction.

**AS AND FOR A SECOND CAUSE OF ACTION
NEGLIGENCE/GROSS NEGLIGENCE**

45. Plaintiff repeats and realleges each and every allegation set forth in paragraphs 1 through 44 as if fully set forth herein.

46. Defendants, Archdiocese of New York and St. Joseph's Church, knew or negligently failed to know that Father Patrick M. Carroll posed a threat of sexual abuse to children.

47. The acts of Father Patrick M. Carroll, as described above, were undertaken, enabled by, and/or during the course of their respective employment, assignment, appointment and/or agency with defendants, Archdiocese of New York and St. Joseph's Church.

48. Defendants, Archdiocese of New York and St. Joseph's Church:

- a. gave improper or ambiguous orders or failed to make proper regulations,
and/or employed improper persons in work involving risk of harm to others;
- b. failed to adequately supervise the activities of Father Patrick M. Carroll;
- c. failed to adequately supervise and safeguard minors attending defendant, St.

Joseph's Church;

- d. permitted and/or intentionally failed and/or neglected to prevent negligent or tortious conduct by persons, whether or not their servants, agents or employees, upon premises under their control; and
- e. allowed the acts of omission and/or commission of any or all of the allegations set forth in this Complaint to occur.

49. At all relevant times, Father Patrick M. Carroll, was under the supervision, employ, direction and/or control of defendants, Archdiocese of New York and St. Joseph's Church.

50. At all relevant times, defendants, Archdiocese of New York and St. Joseph's Church, were wanton, willful, malicious, reckless and outrageous in their disregard for the rights and safety of plaintiff, which conduct was equivalent to criminal conduct.

51. As a direct and/or indirect result of said conduct, plaintiff has suffered injuries and damages as described herein.

52. By reason of the foregoing, defendants jointly, severally and/or in the alternative are liable to plaintiff for compensatory damages and for punitive damages, together with interest and costs in excess of the jurisdictional limits of all lower courts which would otherwise have jurisdiction.

THIRD CAUSE OF ACTION BREACH OF FIDUCIARY DUTY

53. Plaintiff repeats and realleges each and every allegation set forth in paragraphs 1 through 52 as if fully set forth herein.

54. At all relevant times, there existed a fiduciary relationship of trust, confidence, and reliance between plaintiff, on the one hand. and defendants, Archdiocese of New York and St. Joseph's Church, on the other, based upon the entrustment of plaintiff, while he was a minor child,

to the care and supervision of the defendants and each of them, as a parishioner, worshiper, invitee, attendee or guest at defendant, and as a student, invitee, attendee or guest at St. Joseph's Church. The entrustment of the plaintiff to the care and supervision of the defendants and each of them, while plaintiff was a minor child, required the defendants to assume a fiduciary role and to act in the best interests of the plaintiff and to protect him while he was a minor and vulnerable child.

55. Pursuant to their fiduciary relationship with plaintiff, defendants were entrusted with the well-being, care and safety of plaintiff.

56. Pursuant to their fiduciary relationship with plaintiff, defendants assumed a duty to act in the best interests of plaintiff.

57. Defendants, Archdiocese of New York and St. Joseph's Church, breached their fiduciary duties to plaintiff.

58. At all relevant times, the actions and/or inactions of defendants, Archdiocese of New York and St. Joseph's Church, were willful, malicious, wanton, reckless and outrageous in their disregard for the rights and safety of plaintiff.

59. As a direct result of defendants' conduct, plaintiff has suffered injuries and damages described herein.

60. By reason of the foregoing, defendants, jointly, severally and/or in the alternative are liable to plaintiff for compensatory damages and for punitive damages, together with interest and costs in excess of the jurisdictional limits of all lower courts which would otherwise have jurisdiction.

FOURTH CAUSE OF ACTION BREACH OF NON-DELEGABLE DUTY

61. Plaintiff repeats and realleges each and every allegation set forth in paragraphs 1 through 60 as of fully set forth herein.

62. When he was a minor, plaintiff, Hendrix Pineda was placed in the care of defendants, Archdiocese of New York and St. Joseph's Church, for the purposes of providing plaintiff with a safe environment in which to participate in youth activities and receive an education. There was thus created a non-delegable duty of trust between plaintiff and defendants.

63. Plaintiff, Hendrix Pineda was a vulnerable child when placed in the care of defendants, Archdiocese of New York and St. Joseph's Church.

64. Defendants, Archdiocese of New York and St. Joseph's Church, and each of them, were in the best position to prevent plaintiff from being abused and/or to have learned of the repeated abuse by Father Patrick M. Carroll and to have stopped it.

65. As evidenced by the fact that plaintiff, Hendrix Pineda was sexually abused as a minor child entrusted to the care of the defendants, these defendants breached their non-delegable duty to plaintiff.

66. At all relevant times, Father Patrick M. Carroll, was under the supervision, employment, direction and/or control of defendants, Archdiocese of New York and St. Joseph's Church.

67. As a result of the sexually abusive conduct of Father Patrick M. Carroll, plaintiff, Hendrix Pineda suffered the injuries and damages described herein, the full extent of which is unknown at present.

68. By reason of the foregoing, defendants jointly, severally and/or in the alternative are liable to plaintiff for compensatory damages and for punitive damages, together with interest and costs in excess of the jurisdictional limits of all lower courts which would otherwise have jurisdiction.

**FIFTH CAUSE OF ACTION
NEGLIGENT INFLICTION OF EMOTIONAL DISTRESS**

69. Plaintiff repeats and realleges each and every allegation set forth in paragraphs 1 through 68 above as if set forth at length herein.

70. As described above, defendants, Archdiocese of New York and St. Joseph's Church, and Father Patrick M. Carroll, acted in a negligent and/or grossly negligent manner.

71. The actions of defendants, Archdiocese of New York and St. Joseph's Church, and Father Patrick M. Carroll, endangered plaintiff's safety and caused him to fear for her own safety.

72. As a direct and proximate result of the actions of defendants, Archdiocese of New York and St. Joseph's Church, which included, but were not limited to, negligent and/or grossly negligent conduct, plaintiff suffered severe injuries and damages as described herein, including, but not limited to, mental and emotional distress.

73. By reason of the foregoing, Defendants, jointly, severally and/or in the alternative are liable to plaintiff for compensatory damages and for punitive damages, together with costs and interest in excess of the jurisdictional limits of all lower courts which would otherwise have jurisdiction.

**SIXTH CAUSE OF ACTION
BREACH OF DUTY *IN LOCO PARENTIS***

74. Plaintiff repeats and realleges each and every allegation set forth in paragraphs 1 through 73 as if set forth at length herein.

75. While he was a minor, plaintiff was entrusted by his parents to the control of the defendants, Archdiocese of New York and St. Joseph's Church, for the purposes of providing plaintiff with an education and allowing him to participate in youth activities sponsored by defendants. During the times that plaintiff was at school and during the times that he participated in youth activities, he was under the supervision and control of defendant, Archdiocese of New

York and St. Joseph's Church. These defendants, and each of them, at all relevant times and now, owed and owe a duty to children entrusted in their care to act *in loco parentis* and to prevent foreseeable injuries.

76. Defendants, Archdiocese of New York and St. Joseph's Church, breached their duty to act *in loco parentis*.

77. At all relevant times the actions of defendants, Archdiocese of New York and St. Joseph's Church, were willful, malicious, wanton, reckless, negligent, grossly negligent and/or outrageous in their disregard for the rights and safety of plaintiff.

78. As a direct result of defendants' conduct, plaintiff, Hendrix Pineda has suffered the injuries and damages described herein.

79. By reason of the foregoing, defendants jointly, severally and/or in the alternative, are liable to plaintiff for compensatory damages, and for punitive damages, together with interest and costs in excess of the jurisdictional limits of all lower courts which would otherwise have jurisdiction.

**SEVENTH CAUSE OF ACTION
BREACH OF STATUTORY DUTY PURSUANT TO NEW YORK
SOCIAL SERVICES LAW §§ 413, 420 TO REPORT ABUSE**

80. Plaintiff repeats and realleges each and every allegation set forth in paragraphs 1 through 78 as if fully set forth herein.

81. Pursuant to N.Y. Social Services Law §§413, 420, defendants, Archdiocese of New York and St. Joseph's Church, had a statutory duty to report the reasonable suspicion of abuse of children in their care.

82. Defendants, Archdiocese of New York and St. Joseph's Church, breached that duty by knowingly and willfully failing to report reasonable suspicion of abuse by Father Patrick M. Carroll, of children in their care.

83. As a direct and/or indirect result of said conduct, plaintiff has suffered injuries and damages as described above.

84. By reason of the foregoing, defendants jointly, severally and/or in the alternative are liable to plaintiff for compensatory damages and punitive damages, together with costs and interest in excess of the jurisdictional limits of all lower courts which would otherwise have jurisdiction.

WHEREFORE, plaintiff demands judgment against defendants on each cause of action as follows:

- A. Awarding compensatory damages in an amount to be proven at trial, but in any event in an amount that exceeds the jurisdictional limits of all lower courts which would otherwise have jurisdiction;
- B. Awarding punitive damages to the extent permitted by law;
- C. Awarding prejudgment interest to the extent permitted by law;
- D. Awarding costs and fees of this action, including attorneys' fees, to the extent permitted by law;
- E. Awarding such other and further relief as to this Court may seem just and proper.

JURY DEMAND

Plaintiff demands a trial by jury on all issues so triable.

Dated: Port Washington, New York
September 11, 2019

Yours, etc.



Brett A. Zekowski
Parker Waichman LLP
Attorneys for Plaintiff(s)
Office & Post Office Address
6 Harbor Park Drive
Port Washington, NY 11050
516-466-6500
Our File # 933005

ATTORNEY'S VERIFICATION

[illegible]

Brett A. Zekowski, an attorney and counselor at law, duly admitted to practice in the Courts of the State of New York, affirms the following to be true under penalties of perjury:


I am an associate of the firm **Parker Waichman LLP** attorneys for the plaintiff(s) herein.

I have read the foregoing SUMMONS AND COMPLAINT and know the contents thereof. Upon information and belief, I believe the matters alleged therein to be true.

The source of your deponent's information and the grounds of my belief are communications, papers, reports and investigations contained in my file.

The reason this verification is made by deponent and not by plaintiff(s) is that plaintiff(s) reside in a county other than the one in which your deponent's office is maintained.

Dated: Port Washington, NY
September 11, 2019


Brett A. Lekowski

Index No.

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

HENDRIX PINEDA,

Plaintiff,

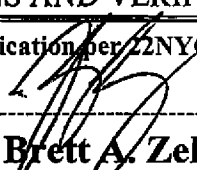
-against-

ARCHDIOCESE OF NEW YORK and ST. JOSEPH'S
CHURCH,

Defendants.

SUMMONS AND VERIFIED COMPLAINT

Certification per 22NYCRR §130-1.1a


Brett A. Zekowski
Parker Waichman LLP
Attorneys for Plaintiff(s)
6 Harbor Park Drive
Port Washington, NY 11050
(516) 466-6500

To:
Attorney(s) for

Service of a copy of the within is hereby admitted.

Dated:
Attorney(s) for

PLEASE TAKE NOTICE

NOTICE OF

ENTRY that the within is a (certified) true copy of a entered in the office of the Clerk of the within named
Court on 2019 .

NOTICE that an Order of which the within is a true copy will be presented to the Hon. , one of the
OF
SETTLEMENT judges of the within named Court, at ,
, on
at M.

Dated:

Parker Waichman LLP
Attorneys for Plaintiff(s)

TO: